



AGREEMENT WITH RESPECT TO

SPECIAL DISTRICT PROFESSIONAL CONSULTING SERVICES

This Agreement, to be effective the 28th day of February, 2017 by and between, Foundry Loveland Metropolitan District, a quasi-municipal corporation and political subdivision of the State of Colorado hereinafter referred to as "District", and Pinnacle Consulting Group, Inc., a Colorado corporation, hereinafter referred to as "Consultant". Witnesseth that, collectively District and Consultant are referred to as the "Parties" or individually as a "Party".

WHEREAS, the District was organized pursuant to the laws of the State of Colorado in order to provide public services including district management, district administration, district finance and accounting, fire and emergency medical administrative services, operation and maintenance of certain public facilities and improvements in accordance with its approved service plan; and

WHEREAS, pursuant to § 32-1-1001(1) (d) (I), C.R.S., the District is permitted to enter into contracts affecting the affairs of the District; and

WHEREAS, the District desires to procure special district professional services which Consultant has experience in providing as required by the District and as further described in Exhibit A (Services) attached hereto, for purposes of services related to District management, administration, accounting, operations, facilities and/or improvements; and

WHEREAS, the District desires to engage Consultant for the purpose of providing professional services as needed by the Foundry Loveland Metropolitan District located in the city of Loveland, Larimer County, Colorado.

Now, therefore, in consideration of the mutual covenants and obligations herein expressed, the Parties agree as follows:

1. SCOPE OF SERVICES:

Consultant agrees to provide District with the specific professional services in part or in total set forth on Exhibit A (Services) attached hereto and incorporated herein by this reference. Consultant and District acknowledge the Scope of Services may be modified annually. The annual scope provided by Consultant will be identified in the District annual budget. The budget work papers and supporting Services will be reviewed and approved by the District Board of Directors.

2. SERVICES BY DISTRICT:

District and District consultants and representatives will be available on a reasonable basis for reviews and meetings, final review and approval, and such other contact as may be required to carry out Consultant's obligations hereunder. At District's expense, District will provide such documents and payment of expenses as are reasonably necessary for Consultant to carry out the duties hereunder. The obligations of District in this regard shall include, without limitation, the following: the provision of complete descriptions of the District, including the Service Plan and maps; the provision of information regarding District policies and procedures, and the provision of engineering, legal, accounting, and other professional services as may reasonably be required to carry out Consultant's duties.

3. COMPENSATION:

A. District shall pay Consultant for services as set forth in Exhibit A. The estimated fee for services specifically stated in Exhibit A (Scope of Services) is \$19,750.00 This Agreement may be renewed for successive terms under which the compensation will be determined prior to the beginning of each annual term by written acceptance of Exhibit A or approval of the annual District budget by the Parties.

B. Special projects and additional services not included in Exhibit A (Services) will result in additional costs to the project. Consultant will provide an estimate of costs associated with the special project or additional scope of services. Consultant will acquire verbal or written approval of additional estimated costs from the Owner prior to commencement of services. Consultant will provide said estimate verbally and receive verbal acceptance from the Owner for costs not exceeding one thousand dollars (\$1,000.00). For special projects and additional services exceeding one thousand dollars (\$1,000.00) in estimated costs, Consultant will provide a written estimate and receive written acceptance from the Owner.

C. District shall pay Consultant for all special projects and additional services to stated services identified in Exhibit A (Services) on an hourly basis at the rates as set forth in Exhibit A (Hourly Compensation for Services).

D. Consultant shall maintain an accounting of time associated with this project. Consultant shall use said accounting to submit a monthly invoice by the 10th of each month to the District describing the professional services rendered. The detailed accounting will be provided to the District by Consultant upon specific request. Upon receipt of the invoice by District, it shall be paid within thirty (30) days.

F. Reimbursable Expenses are in addition to compensation for Consultant's services and include expenses incurred by the Consultant and its employees and consultants in the interest of the Owner, as identified in the following Clauses:

- (i) Fees paid for securing approval of authorities having jurisdiction over the Owner;
- (ii) Reproductions, postage and handling of Drawings, Specifications, and other documents.
- (iii) Travel expenses as required for services directly related to the Owner.
- (iv) Facsimile services, courier services, overnight deliveries or other similar project related expenditures; and
- (v) If authorized in advance by the Owner in writing, required out-of-state travel expenses.

4. CHANGES IN SCOPE OF SERVICES:

The parties may mutually determine that changes in the Scope of Services for the project are necessary. Such changes shall be mutually agreed upon by the parties and shall be incorporated in written amendments to this Agreement, if in addition to the Scope of Services attached to this Agreement.

5. CONSULTANT CONTACT:

District will designate the individual members of the District Board and staff with whom the Consultant shall directly consult with respect to the services to be provided hereunder.

6. TERM:

The term of this Agreement shall commence effective the 28th day of February, 2017 and may terminate upon Thirty (30) days written notice by either Party. In the event of such notice of termination, Consultant shall continue its duties to the date of termination and shall be paid for services rendered to the effective date of termination by the District. Consultant shall be entitled to receive compensation for all unpaid services within fifteen (15) days of the date of termination.

7. INDEMNIFICATION:

A. The Consultant, to the extent permitted by law, shall defend, indemnify, assume all responsibility for and hold harmless the District and its directors, officers, employees, and agents, from all claims or suits for any damages to property or injury to persons, and for the costs of litigation and reasonable attorney fees of all such parties and persons that may arise out of any actions undertaken by the Consultant pursuant to this Agreement; provided, however, that the provisions of this section shall not apply to loss, damage or claims attributable solely to the intentional acts or omissions of the District.

B. The District, to the extent permitted by law, shall defend, indemnify, assume all responsibility for and hold harmless the Consultant and its directors, officers, employees, and agents, from all claims or suits for any damages to property or injury to persons, and for the costs of litigation and reasonable attorney fees of all such parties and persons that may arise out of any actions undertaken by the District pursuant to this Agreement; provided, however, that the provisions of this section shall not apply to loss, damage or claims attributable solely to the intentional acts or omissions of the Consultant.

8. INSURANCE:

A. The Consultant shall carry, provide and maintain, in full force and effect at all times during the term of this Agreement, at its sole costs and expense, any and all insurance coverage required for all of its employees, including worker's compensation insurance, commercial general liability insurance of not less than \$1,000,000.00, errors and omission liability insurance, and automobile insurance in conjunction with the performance of its obligations under the terms of this Agreement.

B. Each Party shall, upon request, provide the other Party with certificates of insurance evidencing the policies listed above at any time during the term of this Agreement. Such policies shall include a provision requiring a minimum of thirty (30) days written notice to the District or the Consultant of any change or cancellation.

9. OWNERSHIP OF WORK PRODUCT:

The originals of all project specific documents, other materials or information relating to the District that are produced, shall be delivered and become the property of the District; however, Consultant may retain copies of any such documents. In addition, all documentation provided by the District or specific documents created by the Consultant for the District is strictly confidential, subject to applicable open records laws.

10. QUALITY OF WORK:

The work performed by the Consultant shall be done in a competent, timely and workmanlike manner in accordance with generally accepted practices.

11. INDEPENDENT CONTRACTOR:

Consultant is and shall be considered an independent contractor under this Agreement and shall not be considered as an employee or agent of District for any purpose.

12. ASSIGNMENT:

It is understood that the District enters into this Agreement based on the knowledge, experience and special abilities of the Consultant. Accordingly, the Consultant shall not assign any responsibilities or delegate any duties of the Consultant without the prior written consent of District. This shall not prevent Consultant from hiring such staff to assist in the performance of any duties that may be determined appropriate.

13. NOTICES:

Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified mail or registered mail, postage and fees prepaid, or by electronically confirmed facsimile transmission addressed to the party to whom such notice is to be given at the address set forth below, or at such other address as has been previously furnished in writing, to the other party or parties.



a. If to the District:

Foundry Loveland Metropolitan District
Brinkman Partners
Attn: Jay Hardy
3528 Precision Drive, Suite 100
Fort Collins, CO 80528

with copy to:

Icenogle, Seaver, Pogue, PC
Attn: Alan Pogue
4725 S. Monaco Street, Suite 225
Denver, CO 80237

b. If to the Consultant:

Pinnacle Consulting Group, Inc.
Attn: Chad Walker or Peggy Dowswell
1627 East 18th Street
Loveland, CO 80538

14. EXHIBITS:
All Exhibits referred to in this Agreement are, by reference, incorporated herein for all purposes.
15. FORCE MAJEURE:
Any delays in or failure of performance by any party of the obligations under this Agreement shall be excused if such delays or failure are a result of acts of God, fires, floods, strikes, labor disputes, accidents regulations or orders of civil or military authorities, shortages of labor or materials, or other causes, similar or dissimilar, which are beyond the control of any such party.
16. CAPTIONS:
The captions of the paragraphs are set forth only for the convenience and reference of the parties and are not intended in any way to define, limit or describe the scope or intent of this Agreement.
17. ADDITIONAL DOCUMENTS OR ACTION:
The parties agree to execute any additional documents or take any additional actions that are reasonably necessary to carry out the intent of this Agreement.
18. INTEGRATION AND AMENDMENT:
This Agreement represents the entire agreement between the parties and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the parties. If any other provision of this Agreement is held invalid or unenforceable, no other provision shall be affected by such holding and all of the remaining provisions of this Agreement shall continue in full force and effect.
19. DEFAULT:
Time is of the essence. If any payment or any other condition, obligation, or duty is not timely made, tendered or performed by either party, after notice of default and failure of defaulting party to cure within ten (10) days, then this Agreement, at the option of the party who is not in default, may be terminated and the nondefaulting party may recover such damages as may be proper. If the nondefaulting party elects to treat this Agreement as being in full force and effect, the nondefaulting party shall have the right to an action for specific performance or damages or both.
20. WAIVER OF BREACH:
A waiver by any party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either party.
21. GOVERNING LAW:
This Agreement shall be governed by the laws of the State of Colorado.

22. EMPLOYMENT OF ILLEGAL ALIENS PROHIBITED.

- A. Employment or Contracting with Illegal Aliens. Consultant certifies that as of the date of this letter, it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement.
- B. Verification Regarding Illegal Aliens. Consultant certifies that it has verified the employment eligibility of all employees who are newly hired for employment, to perform the work under this Agreement, through participation in either the Electronic Employment Verification Program, or Employment Verification Program which is established pursuant to Section 8-17.5-102(5)(c), C.R.S., (collectively referred to as "Verification Programs").
- C. Limitation Regarding Verification Programs. Consultant will not use the Verification Programs to undertake pre-employment screening of job applicants while performing services under this Agreement.
- D. Duty to Terminate Subcontractor: If Consultant obtains actual knowledge that a subcontractor performing work pursuant to this Agreement knowingly employs or contracts with an illegal alien, Consultant shall:
- (i) notify the subcontractor and the District within three (3) days that Consultant has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
 - (ii) terminate the subcontract with the subcontractor if, within three (3) days of receiving notice required pursuant to C.R.S. § 8-17.5-102(2)(b)(III)(A) that Consultant has actual knowledge that the subcontractor is employing or contracting with an illegal alien, the subcontractor does not stop employing or contracting with the illegal alien.
 - (iii) Consultant shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.
- E. Duty to Comply with Investigation. The parties shall comply with any reasonable request of the Colorado Department of Labor and Employment made in the course of an investigation that the Colorado Department of Labor and Employment is undertaking pursuant to the authority established by C.R.S. § 8-17.5-102(5).
- F. Notification. The District shall notify the office of the Colorado Secretary of State if Consultant violates a provision of C.R.S. § 8-17.5-102(2), and the District terminates the Agreement for such breach. The District will notify the Colorado Secretary of State if a court made such a determination.
- G. Participation in Employment Verification Program. Consultant shall notify the District of its participation in the Employment Verification Program and shall comply with the requirements of C.R.S § 8-17.5-102(5) (c).

23. BINDING EFFECT:

This Agreement shall inure to the benefit of, and be binding upon, the parties, their respective legal representatives, and assigns; provided, however, that nothing in this paragraph shall be construed to permit the assignment of this Agreement except as otherwise expressly authorized herein.

24. COMPLIANCE WITH APPLICABLE LAW.

Consultant shall provide the Services set forth in attached Exhibit B (Scope of Services) and as set forth herein in a manner which, to the best knowledge of Consultant's belief is in full compliance with all applicable laws, ordinances, rules, and regulations of any federal, state, county, or municipal body or agency thereof having jurisdiction in which this Agreement is performed. Consultant declares that Consultant has complied with all federal, state and local laws regarding business permits, certificates and licenses that may be required to carry out this Scope of Services to be provided under this Agreement.

25. LIABILITY OF THE DISTRICT.

No provision, covenant or agreement contained in this Agreement, nor any obligations herein imposed upon the District, shall constitute or create an indebtedness or debt of the District within the meaning of any Colorado constitutional provision or statutory limitation.

26. SUBJECT TO ANNUAL BUDGET AND APPROPRIATION.

The District does not intend hereby to create a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever. The performance of those obligations of the District hereunder requiring budgeting and appropriation of funds are subject to annual budgeting and appropriations.

27. INSPECTION:

Each party shall have access to any books, documents, papers and records of the other that are directly related to this Agreement for the purpose of making audit, examination, excerpts and transcriptions.

[Remainder of this page intentionally left blank.]



In witness whereof, the Parties hereto have made and executed this Agreement to be effective as of the 28th day of February, 2017.

DISTRICT:

Foundry Loveland Metropolitan District

Signature:
Printed Name:
Title:

Shannon Stearman
Shannon Stearman
President

CONSULTANT:

Pinnacle Consulting Group, Inc.

Signature:
Printed Name:
Title:

Quad Walker
Quad Walker
President

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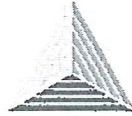


EXHIBIT A
Services

PINNACLE CONSULTING GROUP, INC.

2017 SERVICES - FOUNDRY METROPOLITAN DISTRICT

		2017 SERVICES
<u>DISTRICT MANAGEMENT / ADMINISTRATION</u>		
General Correspondence:	General communication, Newsletters, Website Maintenance	0
Constituent Communication:	Phone Call, E-Mail, Letters	0
Board Meeting:	Preparation, Postings, Packets, Attendance, Minutes and Follow up	54
Record Management:	Files, Records	9
Title:	Property Closing Support (Title Information/Coordination, Research)	0
Fee Billings:	Utility Billing, O&M Fee, Development Fee	0
Collections:	Past Due Collections, Notices, Lien Filing/Release	0
Payables:	Review and Process Invoices, Draft Payables Listing, Banking	10
Reporting:	Action Plan, Utility Tracking	5
Compliance:	Filing, Reporting	8
Management Meetings:	Scheduling, Status Reporting, Review	8.5
Elections:	Election Coordination / Administration	0
Audit:	Audit Preparation and Work Papers	2
Budget:	Preparation and Monitoring of Annual Budget	3
ARC Admin:	Coordinate Design Review/Acceptance, Compliance	0
Covenant Enforcement:	Site Observation, Violation Letters	0
Insurance:	Board of Directors, Facilities and Property Policies	3
Agreements/Contracts:	Draft, Administer and Monitor Agreements (Service Contracts, Agreements, IGAs, etc.)	4
Facilities Management:	Operations Plans, O&M Area Maps, Contractor Coordination/Oversight and Performance Evaluation, Utility Locates, Site Observation and Reporting, Capital Reserve Program, Repairs and Replacements	0
Bond/Debt Compliance:	Reporting related to bonds or debt compliance	0
District Management/Administration Hours		106.5
District Management/Administration Cost		\$ 10,650



PINNACLE

CONSULTING GROUP, INC.

EXHIBIT A- continued
Services

FINANCE AND ACCOUNTING		2017 SERVICES
Accounting:	Monthly G/L Entries, Bank Reconciliations, Account Reconciliations, Adjustments,	39
Audit:	Audit Coordination and Work Paper Preparation	0
Audit Exemption:	Preparation of audit exemption	6
Board Meeting:	Preparation, Financial Presentation, Attendance	9
Budget:	Preparation and Budget to Actual Monthly Monitoring	10
Compliance:	Filing and Reporting	3
Debt Compliance:	Annual Compliance / Reporting - No debt	0
Debt Issuance:	Assist the with issuing debt for reimbursement or future capital projects	0
Financial Statements:	Financial statement preparation	12
Payables:	Accounts payables process	12
Payroll	Manage all areas of the payroll process for employees of the district - No payroll	0
Proforma:	Short Term / Long Term Planning	0
Receivables:	Revenue Billing, Collections, Reporting	0
Cash Management:	Cash Flow and Investing	0
Financial Management:	Oversight of Finance Functions, Best Practices, Internal Controls, Policies & Procedures	0
Finance and Accounting Hours		91
Finance and Accounting Cost		\$ 9,100

SK Stearns
Foundry Loveland Metropolitan District
Date: 3/16/17

[Signature]
Pinnacle Consulting Group, Inc.
Date: 3-15-17

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Exhibit B

Hourly Compensation for Services:

- A. Owner shall pay Consultant for all services to be performed hereunder on an hourly basis at the rates stated below.

Principal:

One Hundred Twenty Dollars (\$120.00) per hour to One Hundred Fifty Dollars (\$150.00) per hour.

Senior Consultant (Director, or Vice President):

One Hundred Fifteen Dollars (\$115.00) per hour to One Hundred Forty Dollars (\$140.00) per hour.

Manager:

One Hundred Five Dollars (\$105.00) per hour to One Hundred Thirty Dollars (\$130.00) per hour.

Administrator:

Seventy Five Dollars (\$75.00) per hour to Ninety Five Dollars (\$95.00) per hour.

Finance & Accounting Staff:

Seventy Five Dollars (\$75.00) per hour to One Hundred Five Dollars (\$105.00) per hour.

Administration Staff:

Sixty Five Dollars (\$65.00) per hour to Ninety Five Dollars (\$95.00) per hour.

- B. Special projects and additional services will be billed on an hourly basis using actual hours and the previously stated rates.
- C. Consultant shall maintain an accounting of time associated with this project. Consultant shall use said accounting to submit a monthly invoice by the 15th of each month to the Owner describing the professional services rendered. The detailed accounting will be provided to the Owner by the Consultant upon specific request. Upon receipt of the invoice by Owner, it shall be paid within thirty (30) days.



Foundry Loveland Metropolitan District

Date: 3/16/17



Pinnacle Consulting Group, Inc.

Date: 3-15-17